

1/8/74

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MONTANA STATE COUNCIL No. 9
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
Affiliated With A. F. L. - C. I. O.



Jerry Wurf
International President

William E. Lucy
International Secretary-Treasurer

COUNCIL OFFICERS

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522 North Franklin Street
Butte, Mt. 59701
Phone: 792-8560

George E. McCammon, Secretary-Treasurer
530 Idaho
Helena, Mt. 59601
Phone: 442-4259

January 8, 1974

RECEIVED

JAN 10 1974

VICE-PRESIDENTS

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R.F.D. No. 1
Deer Lodge, Mt. 59722
Phone: 693-2325

Gerald L. Kuester
803 Dove Street
Glendive, Mt. 59330
Phone: 365-3330

Mr. Robert R. Jensen, Executive Secretary
Board of Personnel Appeals
1406 Gallatin Avenue
Helena, MT 59601

BOARD OF PERSONNEL APPEALS

Dear Bob:

Montana State Council No. 9, American Federation of State, County and Municipal Employees, AFL-CIO, does hereby file a counter-petition for unit determination concerning clerical personnel of the City of Billings.

We have been informed that the Montana Public Employees Association has filed a request for the Board of Personnel Appeals to designate the clerical workers of the City of Billings as an appropriate unit and designate the MPEA as the exclusive representative.

Montana State Council No. 9, American Federation of State, County and Municipal Employees, AFL-CIO, does oppose such request by MPEA.

On January 24, 1972, Montana State Council No. 9, American Federation of State, County and Municipal Employees, AFL-CIO, was recognized as the exclusive bargaining representative for all employees of the City of Billings excluding supervisory, managerial, fire and police personnel by the City of Billings.

Recognition was granted as a result of a secret ballot election conducted by the Montana Department of Labor & Industry on January 20, 1972.

Presently, the above mentioned bargaining group is working under written Agreement between the City of Billings and the Union.

Sincerely,

Stanley W. Gerke
Field Representative

Richard Wareham
Box 422
Boulder, Mt. 59632
Phone: 225-3684

Donald C. Lenhardt
219 7th Avenue
Laurel, Mt. 59044
Phone: 698-4658

Dale D. Moore
505 25th St. South
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Phone: 452-9401

Thomas V. West
1944 Custer Avenue
Billings, Mt. 59102
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COUNCIL STAFF

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600 Cooke St.
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Phone: 442-0760

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121 Burlington Avenue
Missoula, Mt. 59801
Phone: 549-7656 (Res.)

Stanley W. Gerke
Field Representative
1014 Cherry Avenue
Helena, Mt. 59601
Phone: 443-3128 (Res.)

dkm

cc: Mulcahy
Haney
Pickart
Leone

City of Billings

Problem

Should the clerical personnel of the City of Billings be designated as a separate bargaining unit or remain as a part of an already existing unit for all city employees excluding supervisory, managerial, fire & police personnel.

Facts

1. MPEA submitted authorization cards representing 98 of 115 employees in the clerical class.
2. Presently the clerical employees are included in group (approx. 340) under written agreement between the City of Billings and AFSCME.
3. An election was conducted on January 20, 1972. One hundred voted for no union representation.
4. Present written agreement does spell out by classification those employees covered by the agreement and clerical employees are included.

Alternatives

1. Determine the most appropriate unit for clerical personnel to be within the present unit structure.
2. Determine that clerical personnel of City of Billings be designated as an appropriate unit.

Alternative, no. 1:

Advantages	Disadvantages
Prevent fragmentation of units. Commonality of fringe benefits, work site supervision, qualifications, integration of work functions, wages & hours. Unit already established.	Desire of clerical employees. Extent of integration of work functions.

Alternative, no. 2:

Advantages	Disadvantages
Desire of employees, Extent of integration of work functions, commonality of wages, hours, fringe benefits, work site, supervision, qualifications, interchange among affected employees, working conditions	Fragmentation of total employee unit. Appropriate unit now exists.

Recommendation

Choose alternative #1 since advantages are identical but disadvantages of #2 could set a precedent for unit fragmentation throughout the state. History of collective bargaining favors alternative #1.

1/29/74

January 29, 1974

City of Billings

Background History

February 5, 1973 - The City Council of Billings voted to require non-union employees to submit a new petition consisting of over 50% of the employees eligible to vote in the certification election. The Montana Department of Labor and Industry would then be asked to conduct an election. Shortly after this action by the City Council, a petition was drawn up and sent to some Departments for signature. (Attachment #1) As noted on the petition, an election date is requested for April 10, 1973.

March 5, 1973 - The City Council of Billings accepted a petition drafted by non-union employees. (Attachment #1) It should be noted, however, the petition was never seen by union officials or the Department of Labor and Industry.

March 7, 1973 - Billings City Clerk, William Fry, requested the Department of Labor and Industry to conduct an election on April 10, 1973. (Attachment #2)

March 26, 1973 - Tony Softich, Administrator Labor Standards Division of the Department of Labor and Industry, appeared before the City Council of Billings. Mr. Softich reported on the forthcoming Collective Bargaining Act and said it would be futile to schedule an election before July 1st. Softich explained that after July 1, 1973, the statutes would spell out election procedures. Softich remarked that the present request for an election was a decertification of the present bargaining agent. The Council voted to delay the election until after July 1, 1973.

March 30, 1973 - Local 2390 notified the City of Billings that the Union desired to modify the Agreement. (Attachment #3)

April 2, 1973 - Billings City Council voted to schedule an election for July 16, 1973, to determine if city employees wanted to continue being represented by AFSCME or not.

April 5, 1973 - Lawyer James J. Sinclair notified me by letter that AFSCME, AFL-CIO was no longer the exclusive bargaining representative for the employees of the City of Billings. (Attachment #4) Mr. Sinclair also wrote Mayor Joseph Leone (copy to me) that some city employees contacted him concerning City Council action of scheduling an election for July 16th. (Attachment #5)

May 26, 1973 - Local 2390 submitted its request for wage increases to be effective July 1, 1973. (Attachment #6)

June 11, 1973 - Billings City Council moved to exclude office employees from the election to be held July 16, 1973, and these employees to be represented by the Montana Public Employees Association. (Attachment #7) This motion by City Council was never carried out. Reference letter from lawyer James D. Walen to Robert Forshee, Chairman of Local 2390's Negotiating Committee. Mr. Walen reports that he had informed Mr. Sinclair that Local 2390 is not willing to stipulate any city employees out of the Union. Also, Mr. Walen reports that the City Attorney will advise the City that Local 2390 is the sole and exclusive bargaining agent and the City should not bargain with any other agent. (Attachment #8)

June 26, 1973 - First negotiating session held between the City of Billings and Local 2390. Negotiations continued from this date until December 19, 1973. Also, during earlier months and through wage negotiations held in August, the City was working on a classification program which included all employees. The Union did participate in the formulating of such plan. The Classification Program became effective July 1, 1973.

December 19, 1973 - Written Agreement signed and entered into between the City of Billings and Local 2390. (Attachment #9) This Agreement does spell out by classification those employees covered by the Agreement. Addendum "A" excludes only those employees who are employed in managerial or supervisory capacity, the police officers and firemen. Also, the Agreement does incorporate all portions of the Classification Program that pertain to classifications listed in Addendum "A".

Submitted by,

Stanley W. Gerke
Field Representative
Montana Council No. 9

7/1/73

OFFICERS

DONALD J. "JIM" SKINNER, PRESIDENT
WATER DEPARTMENT, CITY OF GREAT FALLS
GREAT FALLS

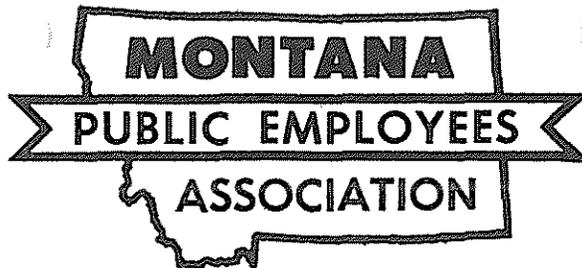
WM. MANNING, 1ST VICE PRESIDENT
AUDITOR, LEWIS AND CLARK COUNTY
HELENA

ROGER F. "BUD" GRIFFIN, 2ND VICE
PRESIDENT
DEPARTMENT OF HIGHWAYS, RETIRED, HELENA

RALPH A. JACKSON, 3RD VICE PRESIDENT
EMPLOYMENT SECURITY COMMISSION
HELENA

VIRGINIA G. KENYON, 4TH VICE PRESIDENT
STATE DEPARTMENT OF HEALTH, HELENA

MARVIN D. OLAF, SECRETARY-TREASURER
DEPARTMENT OF REVENUE, HELENA



THOMAS E. SCHNEIDER - EXECUTIVE DIRECTOR
PHONE (406) 442-4600

P. O. BOX 1184

HELENA, MONTANA 59601

July 1, 1973

REGIONAL DIRECTORS

GARY LYTHGOE, REGION 3
EMPLOYMENT SECURITY COMMISSION,
BILLINGS

JOAN STEFFANI, REGION 4
CITY CLERK'S OFFICE
CITY OF GREAT FALLS

MARGARET "PEG" CONDON, REGION 5
WORKMAN'S COMPENSATION DIVISION
HELENA

RECEIVED

JUL - 2 1973

DEPT. OF LABOR & INDUSTRY

Mr. Sidney T. Smith, Commissioner
Department of Labor and Industry
1331 - Helena Avenue
Helena, Montana 59601

Dear Mr. Smith:

I am herewith forwarding to you 98 authorization for representation cards signed by clerical workers of the City of Billings.

These cards, requesting The Montana Public Employees Association to be designated as the "exclusive representative", represent 98 of a total of 115 employees in the clerical class.

The City Council of Billings, through it's action of June 11th., has already designated MPEA to represent these employees but under the new law we feel it is appropriate for the Board of Personnel Appeals to designate these employees as an "appropriate unit" AND to officially designate MPEA as the exclusive representative.

The enclosed cards are the originals and must be used by us in the future so I would appreciate it if you would see that they are handled properly.

Would you please notify myself and Mr. James J. Sinclair of the Law Firm of Berger, Anderson, Sinclair and Murphy, 2512-3rd. Avenue North, Billings, Montana of the time and place of the hearing on this request.

Thank you..

Sincerely yours,

Thomas E. Schneider
Executive Director

cc - Mr. James J. Sinclair
Mrs. Mary L. Frey

6/29/73

June 29, 1973

William J. Fry, Jr.
City Clerk
City of Billings
Billings, Montana 59101

Dear Mr. Fry:

We are in receipt of your letter in behalf of the City Council of Billings, to conduct an election of City Employees for the purposes of representation for collective bargaining.

Until the new legislation is implemented, we shall not hold any election.

The statutes provide for a board to be appointed by the Governor to set up rules and regulations for all aspects of collective bargaining.

As soon as such a board is established, our office will give the City of Billings first priority for an election under rules adopted by the board.

We shall notify you as soon as possible, but July 16th, at this time, is out of the question.

Sincerely,

Tony Softich, Administrator
LABOR STANDARDS DIVISION

CITY OF BILLINGS, MONTANA

RECEIVED

P. O. BOX 1178
ZIP 59103

TELEPHONE 248-7511
EXT. 210

JUN 21 1973

OFFICE OF THE

City Clerk

WM. J. FRY, JR.
DIRECTOR OF FINANCE
CITY CLERK

CARL L. CHRISTENSEN, ASSISTANT
LOIS O. SCHUSTER, DEPUTY

DEPT. OF LABOR & INDUSTRY

June 20, 1973

Important

Department of Labor and Industry
1331 Helena Avenue
Helena, Montana 59601

Gentlemen:

The City Council of the City of Billings, Montana has authorized an election of the City Employees to determine whether or not the employees wish Union recognition.

The election is proposed to be held the 16th of July, and the Council has requested that the Department of Labor and Industry conduct this election.

Sincerely yours,

Wm. J. Fry, Jr.
City Clerk

WJF:ls